

AUG 16 2013

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

JULIA C. DWISLEY, CLERK
BY: 
DEPUTY CLERK

UNITED STATES OF AMERICA)	Criminal Case No. 5:93cr00004-1
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
CLARENCE SHELDON JUPITER)	By: Samuel G. Wilson
)	United States District Judge

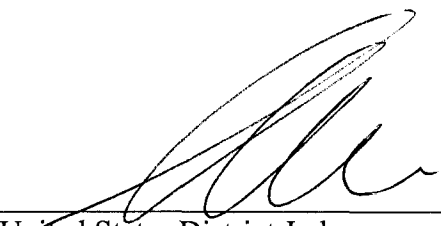
Clarence Sheldon Jupiter, a federal inmate proceeding *pro se*, filed a “motion under 18 U.S.C. § 3742(e)” (ECF No. 270), in which he argues that both trial and appellate counsel provided ineffective assistance. Inasmuch as Jupiter is challenging the validity of his federal conviction and sentence, the court construes Jupiter’s motion as a motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. Upon review of the record, however, the court finds that the motion must be dismissed as an unauthorized, successive § 2255 motion.

Jupiter challenges his 1994 life sentence for various drug offenses. Court records indicate that Jupiter previously filed two § 2255 motions regarding the same conviction and sentence, both of which this court dismissed. See Civil Case Nos. 7:98cv16 (dismissed as untimely filed) and 7:00cv629 (dismissed as successive). This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the motion meet certain criteria. See § 2255(h). As Jupiter has not submitted any evidence of having obtained certification from the Court of Appeals to file a second or successive § 2255 motion, the court must dismiss his motion as successive.¹

¹ Petitioner is hereby advised of the procedure for obtaining certification from the United States Court of Appeals for the Fourth Circuit to have this court review a successive § 2255 motion. Petitioner must submit a copy of the successive § 2255 motion to the Court of Appeals, along with a motion requesting a three-judge panel certification that the district court may review the successive § 2255 motion. See 28 U.S.C. § 2244 (as amended, 1996). A Fourth Circuit form and instructions for filing this motion will be included with this notice or are available

For the reasons stated, the court construes Jupiter's motion as a § 2255 motion and dismisses it as successive.

ENTER: This 16th day of August, 2013.


United States District Judge